

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

United States of America,
Plaintiff/Respondent
v.
Gilberto Landeros,
Defendant/Petitioner

Case No.: 2:13-cr-00260-JAD-GWF

Order Denying Motions for Appointment of Counsel and to Reevaluate Sentence

[ECF Nos. 40, 41]

In 2014, Gilberto Landeros pled guilty to illegally possessing a firearm under 18 U.S.C. § 922(j) and § 924(a)(2).¹ I sentenced him to a prison term of 120 months after finding that he had prior convictions that qualified as “crimes of violence” under United States Sentencing Guideline § 4B1.2(a). In 2017, Landeros filed a motion to vacate his sentence, arguing that the Supreme Court’s decision in *Johnson v. United States*—which deemed unconstitutional part of the Armed Career Criminal Act’s crime-of-violence definition—rendered his sentence under the advisory Sentencing Guidelines constitutionally infirm. But after Landeros filed his motion, the Supreme Court decided *Beckles v. United States*,² which found the advisory Guidelines still constitutional after *Johnson*, so I denied his motion to vacate because *Beckles* precluded the relief he sought.³

Landeros now moves pro se to have his sentence reevaluated and asks me to appoint him counsel “in light of the change in law under *Sessions v. Dimaya*.⁴ It appears that Landeros believes *Dimaya* affects the validity of his sentence. It doesn’t. In *Dimaya*, the Supreme Court held that a portion of the Immigration and Nationality Act’s (INA) crime-of-violence definition

¹ ECF No. 30.

² *Beckles v. United States*, 137 S. Ct. 886 (2017).

³ ECF No. 39.

⁴ ECF Nos. 40, 41. The motions are identical.

1 is unconstitutional.⁵ Landeros was not convicted or sentenced under the INA, so *Dimaya* has no
2 impact on his sentence. *Beckles* still precludes Landeros's relief, so I deny his motion to
3 reevaluate his sentence. And because the interests of justice do not require that I appoint counsel
4 to settle this straightforward legal question, I deny Landeros's motion seeking an attorney.⁶

Conclusion

6 Accordingly, IT IS HEREBY ORDERED that Gilberto Landeros's motions for
7 appointment of counsel and to reevaluate his sentence [ECF Nos. 40, 41] are DENIED.

8 Dated: July 24, 2018


U.S. District Judge Jennifer A. Dorsey

⁵ *Sessions v. Dimaya*, 138 S. Ct. 1204, 1223 (2018).

⁶ See 18 U.S.C. § 3006A(a)(2).